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March 28, 2001

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VIA HAND DELIVERY

David Waddell, Executive Secretary
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, TN 37238

Re: *Universal Service Fund*
Docket No. 97-00888

Dear Mr. Waddell:

Enclosed are the original and thirteen copies of BellSouth's Reply Comments. Copies of the enclosed are being provided to counsel of record for all parties.

Very truly yours,

Guy M. Hicks

GMH:ch
Enclosure

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee**

**In Re: *Universal Service Generic Contested Case*
 Docket No. 97-00888**

REPLY COMMENTS OF BELL SOUTH TELECOMMUNICATIONS, INC.

BellSouth Telecommunications, Inc. ("BellSouth") hereby files its Comments in Reply to the Comments of AT&T filed March 14, 2001, and states the following:

In the Director's Conference of February 21, 2001, the Tennessee Regulatory Authority ("TRA" or "Authority") requested that the parties to this proceeding provide Comments on certain specifically identified issues. In the main, AT&T's Comments are directed to matters that the parties were not requested to comment upon, and that have, in fact, already been resolved in this proceeding.

In essence, AT&T argues that there should be no universal service fund in Tennessee. While doing so, AT&T ignores the fact that the Authority has already created a fund in the context of this proceeding, and determined how it will be sized. Specifically, in the Interim Order on Phase II of Universal Service (dated September 16, 1999), the TRA stated the following:

The Authority finds that the minimum Universal Service support is the total difference between the cost and the revenue benchmark summed over the wire centers in which cost exceeds revenue, less federal support.

(Order, p. 12).

The TRA subsequently required BellSouth and United Telephone, Southeast ("UTSE") to submit studies consistent with this methodology. The parties did so,

and at the Director's Conference of February 21, 2001, the Directors accepted these studies as compliant with their previous Orders. In this regard, Commissioner Kyle made a motion that included, in part, the following comments:

The studies submitted by BellSouth and UTSE indicate there are 83 wire centers served by nonrural providers where the cost of providing residential service exceeds the revenues generated by the services. These 83 wire centers serve 270,000 residential subscribers in rural areas of Tennessee. In order to maintain affordable rates in these rural areas, I find that it is necessary to establish an intra-universal service fund in the high cost areas served by BellSouth and UTSE.

The Directors unanimously approved this Motion, and thereby specifically found that it is appropriate to have a universal service fund in high cost areas. (See February 21, 2001 Tr. at 10, 16.)

Inexplicably, AT&T simply ignores what has transpired over the past several years in this proceeding (in which it has participated fully) as well as the specific findings of the TRA, and argues that there should be no universal service fund. However, while filing what is, in effect, a request to reconsider a determination that has already been made, AT&T does not identify any error in the TRA's previous decision on this point, and, in fact, fails to even acknowledge that the TRA has ruled on this issue. This fact is reason enough to disregard AT&T's comments on the need for a universal service fund in Tennessee.

AT&T's Comments on this point should be rejected for the additional reason that AT&T's view is clearly at odds with the pertinent facts. AT&T's argument that there should be no universal service fund is fundamentally based upon the

twin fictions (1) that there can be no universal service fund in the absence of what AT&T calls "robust competition" (a term that AT&T does not define), and (2) that there is no competition in Tennessee. In ostensible support of the second point, AT&T claims that BellSouth has failed to make available to competitors "the means for providing local service, such as facilities, interconnection, operations support systems, unbundled network elements ("UNEs"), and UNE combinations." (AT&T Comments, p. 3). AT&T further asserts that since these items are not available, competitive entry is impossible.

What AT&T conveniently ignores is that there has been a great deal of competitive entry in the local market in Tennessee, albeit by carriers that truly wish to compete in this market (a category into which AT&T could likely not be placed). Specifically, in the Tennessee Regulatory Authority's Annual Report for the period July 1, 1999 to June 30, 2000, the Authority concluded as follows:

Tennesseans are seeing significant competitive activity in the business segments of the local telecommunications markets. As of June 30, 2000, sixty (60) facilities-based competitors were certificated to provide local telephone service in the state, with twenty-nine (29) of these providers offering services in Tennessee. These twenty-nine (29) facilities-based competitors are serving 217,000 lines in Tennessee, primarily business customers in the state's four (4) largest metropolitan areas. This represents seven percent of Tennessee's total lines open to competition and 27% of the business lines subject to competition.

(Report at p. 35).

Given the relatively recent passage of the Telecommunications Act, the fact that twenty-seven percent of the business lines in the state are now served by local

carriers other than BellSouth reflects the fact that competition in the local market in Tennessee is not only alive and well, it is growing rapidly.

AT&T would no doubt argue that this competition has, to date, been largely for business customers. If AT&T were correct, however, in its unsupported allegation that the local market is not open to competition, then competitors would be unable to serve any local customers, either business or residential. Given this, AT&T's claim that the local market is not open is belied by the above-quoted conclusions of the TRA. Further, it is likely that business customers are enjoying greater benefits of competition than residential customers only because business customers can be served more profitably. As BellSouth has noted in the past, until explicit universal service support is made available to any carrier that chooses to serve customers in high cost areas, these largely residential customers will likely not be served aggressively by non-ILEC competitors. Thus, contrary to AT&T's claims, the current state of competition in Tennessee actually supports the need for universal service, so that the rapidly increasing competition to provide service to business customers can be fully extended to the residential market as well.

In Section II of its Comments, AT&T alleges that BellSouth has provided data to the TRA that "omits consideration of revenues that are lawfully required to be considered by the TRA." (Comments, p. 4). In making this claim, however, AT&T ignores the fact that BellSouth provided on March 7, 2001, precisely what was requested by the Directors in the Director's Conference on February 21, 2001.

The substance of the information that BellSouth was requested to file was stated in the Conference by Director Kyle as follows:

I move that BellSouth and UTSE be required to file a summary sheet showing for each high cost wire center, one, the revenue benchmark; two, cost per line; and three, the number of initial residential lines; and, four, universal service support necessary.

(See February 21, 2001 Tr. at 10.) Again, this is precisely what BellSouth filed. Still, AT&T criticizes BellSouth because it filed what was requested by the TRA, not what AT&T believes would lend credence to its argument that there should be no universal service fund. In doing so, AT&T not only continues to ignore what the Authority has already ruled, but, in effect, makes an implicit legal attack upon that ruling (i.e., by claiming that a BellSouth filing that provides what is needed to implement the TRA's decision does not include what is "lawfully required"). The fact remains, however, that the TRA has ruled and a fund has been created. AT&T's refusal to acknowledge this fact does not change it.

Finally, AT&T claims that there is support in the Tennessee Statutes for its view that there should be no universal service fund in Tennessee in the absence of "robust competition." Even if AT&T's factual assertions were correct (and they are not), the Tennessee Statutes are not as AT&T claims. AT&T represents that Section 65-5-207(b), Tennessee Code Annotated, requires that the TRA "consider the need for modifying current universal service support mechanisms." (AT&T Comments, p. 6) (emphasis added). AT&T then claims that the purported lack of

competition in Tennessee militates in favor of having no fund, and commends to the TRA a recent decision by the Georgia Commission.

To begin by stating the obvious, the Georgia Commission acted based upon its interpretation of Georgia law, not the law of Tennessee that must be followed by this regulatory body. More to the point, AT&T has grossly misconstrued the meaning of the above-quoted statutory provision. Section 65-5-207(b) requires the Authority to initiate a generic contested case proceeding to determine the cost of providing universal service. This is precisely what the TRA did, and this effort has been going on for several years. This effort, in fact, culminated in the decision to create a universal service fund, a decision that, as stated above, AT&T attempts to ignore. AT&T's contention that this statutory provision requires the TRA to reconsider the findings that it has already made regarding universal service (even if there were this alleged lack of competition) is plainly wrong under Tennessee law.

Again, AT&T's unsolicited contention that there should be no universal service fund is comprised of a refusal to acknowledge that the TRA has already ruled on this issue, combined with the related fictions that there is no competition in Tennessee, and that the creation of a universal service fund requires some sort of competitive threshold. As set forth above, AT&T is wrong both on the facts and the law, and its position should be rejected.

Once AT&T turns in its Comments to addressing the issues upon which comments were actually requested, it states certain points with which BellSouth agrees. For example, AT&T advises the use of caution before utilizing the universal

service fund for investments “to deploy advanced services in rural areas” (Comments, p. 11). Likewise, AT&T makes the logical point that line sharing may have some impact upon the use of second lines to provide access to advanced services. (p. 12) Still, AT&T makes two specific representations with which BellSouth cannot agree.

First, AT&T contends that support for the telecommunications relay service “is provided through assessments only on long distance service providers and ultimately long distance service users.” (p. 8, emphasis added). Based on this contention, AT&T requests that the TRA establish a line item charge on subscribers’ bills to explicitly fund telecommunications relay service. In point of fact, the intrastate portion of the cost of the Tennessee Relay Center is funded by both IXCs and ILECs. BellSouth, as the billing administrator, apportions approximately 50% of the assessment billed to BellSouth by the Tennessee Relay Center, which is then recovered from IXCs by increased intrastate carrier common line charges for all ILECs. The remaining 50% of the assessment is paid by the ILECs, and there is no explicit mechanism for recovery. This point aside, if the TRA determines that it is appropriate to fund the relay system through an explicit line item charge on subscriber bills, BellSouth does not object to this approach.

BellSouth also takes issue with the statements of AT&T in another area in which comments were requested, the possible funding of secondary lines. AT&T contends that “support for second lines would be contrary to guidelines, federal and state, for the determination of services eligible for universal service support.”

(p. 10) As to state law, AT&T does not cite to any statutory provision that would prohibit the support of second lines. Instead, AT&T merely notes that in the Interim Order on Phase I of this proceeding, the TRA determined that intrastate support would only be provided for primary lines. Since the Directors have specifically requested comments from the parties on whether second lines should be funded, it is reasonable to assume that the TRA is considering the possibility of revisiting its earlier decision. (See February 21, 2001 Tr. at 13.) Given this, it is not particularly helpful for AT&T to remind the Authority that this earlier decision exists. Beyond this, AT&T cites to no Tennessee Statute, or other law of Tennessee, that would prohibit this Authority from reconsidering its decision to provide funding for secondary lines, if it were inclined to do so.

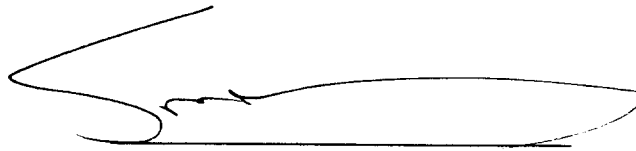
AT&T is also mistaken in the contention that funding secondary lines is contrary to federal law. In point of fact, secondary residential lines are eligible for universal service support. The Federal USF Program for high cost areas uses all switched lines in the computation of universal service support. The calculation of available support is addressed in 47 CFR 54.309, which states that the number of lines to be used for this calculation are those reported "pursuant to § 36.611, § 36.612 and § 54.307" Section 36.611(h) states that,

For universal service support purposes, working loops are defined as the number of working Exchange Line C&WF loops used jointly for exchange and message telecommunications service, including C&WF subscriber lines associated with pay telephones in C&WF Category 1, but excluding WATS closed end access and TWX service.

This definition makes no distinction between "working loops" used as primary lines and those used as secondary lines. Thus, AT&T is wrong in its contention that it would be inconsistent with federal policy for the TRA to determine that universal service support should be provided for secondary lines.

Respectfully submitted,

BELLSOUTH TELECOMMUNICATIONS, INC.

A handwritten signature in black ink, appearing to read "Guy M. Hicks", written over a horizontal line.

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CERTIFICATE OF SERVICE

I hereby certify that on March 28, 2001, a copy of the foregoing document was served on the parties of record, via hand delivery, fax, or U. S. Mail, postage pre-paid, addressed as follows:

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